

HON'BLE THE CHIEF JUSTICE SRI G.S. SINGHVI
AND
HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY
Writ Appeal No.419 of 2007

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Between:

Gunturu Krishna Leela and 45 others

... Appellants

And

Didla Narayana and seven others

... Respondents

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::JUDGMENT::

Counsel for the appellants : Shri K. Ravi

Counsel for respondent Nos. 1 and 2: Smt. B. Vijayalakshmi

Counsel for respondent Nos. 3 to 8 : Government Pleader for
Cooperation

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June 4, 2007

Per G.S. Singhvi, CJ

Feeling aggrieved by order dated 5-1-2007 passed by the learned Single Judge in Writ Petition No. 19362 of 2003 whereby he quashed their induction as members of Vijaya Bhaskara Cooperative Collective Farming Society, Puligadda, Avanigadda Mandal, Krishna District (hereinafter described as 'the society'), the appellants have preferred this appeal.

Although the appellants have raised several grounds for questioning the order under challenge, we do not consider it

necessary to deal with the same, because after hearing Shri K. Ravi, learned counsel for the appellants, Smt. B. Vijayalakshmi, learned counsel for the writ petitioners (respondent Nos.1 and 2 herein) and the learned Government Pleader for Cooperation appearing for respondent Nos.3 to 8, we are convinced that the order under challenge is liable to be set aside on the ground of violation of the rules of natural justice.

A perusal of the record shows that the applications made by the appellants for being admitted as members of the society were forwarded by the part-time Person-in-Charge of the society to Deputy Registrar of Co-operative Societies/Divisional Co-operative Officer (respondent No.5 herein), but the latter did not approve the same. Thereafter, Joint Registrar/District Co-operative Officer, Machilipatnam (respondent No.3), vide his order dated 30-12-2002 accorded permission to the part-time Person-in-Charge for admission of the appellants as members of the society.

Respondent Nos.1 and 2 challenged the admission/ induction of the appellants as members of the society by contending that respondent No.3 did not have the jurisdiction to accord permission to the part-time Person-in-Charge to admit new members. The learned Single Judge accepted their plea and set aside order dated 30-12-2002 by recording the following observations:

“The very order of the District Cooperative Officer to admit the DWACRA members itself is arbitrary and illegal. No member could be admitted without the same being approved by the general body of the society. In this case, admittedly, no such resolution was passed by the general body of the Society and only on the recommendation of the District Cooperative Officer, a resolution was passed on 5-1-2003 by the then Part-time Person Incharge admitting the new members, which of course, has not been approved by the concerned authority.

Therefore, the impugned order passed by the 1st respondent on 30-12-2002 is bereft of any authority and a colourable exercise of power; therefore, the same is liable to be set aside and is accordingly, set aside.”

Shri K. Ravi, learned counsel for the appellants argued that the membership of his clients could not have been annulled by the learned Single Judge because they were not parties to the writ petition filed by respondent Nos. 1 and 2 and, on that account, they did not get opportunity to represent their cause.

Smt. B. Vijayalakshmi, learned counsel for respondent Nos.1 and 2 fairly admitted that none of the appellants was impleaded as a party in the writ petition, but she tried to explain this omission by stating that her clients were not aware of the particulars of the appellants.

In the context of the aforementioned submission of the learned counsel, we inquired from her whether her clients had made any application to respondent No.1 or any of the authorities of the department or the part-time Person-in-Charge to furnish the list of the persons who were admitted as members pursuant to order dated 30-12-2002. To this, the learned counsel replied in negative.

There cannot be any dispute that the annulment of order dated 30-12-2002 vide which respondent No.3 accorded permission for admission of the appellants as members of the society has adversely affected their right, interest and status. Therefore, without calling upon respondent Nos. 1 and 2 to implead the affected persons as party respondents, the learned Single Judge could not have nullified their admission as members of the society.

In view of the above, we have no hesitation to hold that the order under challenge is vitiated due to violation of the basics of

natural justice and is liable to be set aside on this ground alone.

In the result, the appeal is allowed. The order of the learned Single Judge is set aside and the writ petition is remitted for fresh adjudication by the Single Bench in accordance with law.

As a sequel to disposal of the appeal, WAMP No.781 of 2007 filed by the appellants for interim relief is disposed of as infructuous.

G.S. SINGHVI, CJ

C.V. NAGARJUNA REDDY, J

June 4, 2007

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